Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty

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In 1648, with the signing of the treaties of Munster and Osnabruck, the Westphalian order came into existence. Depending on one's critical viewpoint, this order either defined the central architectural principle of the modern state system or provided a very misleading "origin myth" about its evolution. The universal ideas that gave cohesion to the medieval world—a cohesion no less important because it contradicted great diversity—gave way to separate states and nations, each capable of defining its own goals and cultural mission. The idea of sovereignty took root, though not immediately, and provided the ideological justification for ultimate control within a specific territory at the same time that it provided a basis for recognition from other states. Sovereigns made treaties with other sovereigns, forged policies to rule inside a territory, attempted to exclude other authorities from interfering in "domestic politics," developed stronger controls over their own borders, and actively participated in the construction of citizenship and nationalism. In short, the politics of "inside-outside" began their active construction (Walker 1993).

The above represents at least the canonical version of the origin and development of the modern state system. I recognize that the Westphalian order is an ideal type from which there are enormous departures in practice. Agnew's "territorial trap" (1994) and Krasner's "Westphalian compromises" (1995/1996) both point out the dangers of conceiving the Westphalian state as overly bounded in territorial terms. But for better or worse, the Westphalian model has served

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as a point of departure and baseline against which the more complex empirical world is compared. The Westphalian order renders a powerful influence even if it is honored in the breach. The basic idea is one of a system of territorially organized states operating in an anarchic environment. These states are constitutionally independent (sovereign) and have exclusive authority to rule within their own borders. They relate to the population within their borders as citizens (S*taatsangehoerige,* those belonging to the state) and to other states as legal equals.

Kenneth Waltz's (1959) famous three levels of analysis—the individual, the national state, and the international system—build implicitly on this inside-outside distinction. The second level, that of the nation-state, is almost by definition a Westphalian state and the systemic level refers to the distribution of capabilities (of power, variously defined) among nation states. Waltz carries the logic of the territorial state to its limits by exhorting us to ignore second-image factors in favor of the systemic distribution of capabilities. These capabilities are in effect the aggregations of distinct national powers, even if their sources rest physically within the territory of another country.[2] Even studies of dependency, hardly part of the research core of realist theory, use the nation-state along with a heavily idealized notion of an autonomous national economy as counterfactual reference points. While heavily influenced and penetrated by "foreign" capital, which rears its head "internally" as part of the comprador domestic bourgeoisie, peripheral countries are presumed to be frustrated political, economic, and cultural communities struggling to realize their distinctive potential. This potential is defined in terms of an autonomous state, nationally unified, and in control of its own economic policy. Here the Westphalian model serves as an ideal from which dependent countries have departed in the face of global economic pressures.

Numerous research questions can be organized around the Westphalian order. To what extent was the Westphalian moment really a turning point of significance? Such a question does not assume that a new system was born overnight. Instead, we can ask if this date (or temporal region) constituted an inflection point in the trajectory of the evolution of the state system. The notion that the state system came into existence full-blown in 1648 has been under constant attack, but the brunt of the attack has come from those who think that the territorial state was put in place, and consolidated, much later. Thus, Janice Thomson's (1994) research on the consolidation of the means of violence demonstrates that the state's much-touted monopoly of legitimate violence did not arrive until the middle of the nineteenth century.

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[2] For example, the economic resources of subsidiaries of international and multinational corporations may be mobilized by the parent state for use in warfare, economic negotiations, and sanctioning.

The growth of nations and nationalism was a phenomenon that took off during the eighteenth and nineteenth centuries. How did the growth of nations and nationalism relate to the development of the Westphalian system? We take nationalism as a critical part of the modern landscape. Yet in the seventeenth century states could hardly be said to rest on anything like the cultural groups that developed much later. How did states and nations come to their present level of congruence that, while far from perfect, is much closer than we might expect? Can this process of mating between nations and states be accurately described as a Deutschian (Deutsch et al. 1957) demand-side phenomenon, with communities of feeling and common identity forming and then choosing their own sovereign institutions—in short, their own states? Or is the Tilly (1992) formulation a better approximation? In Tilly's approach, aspiring state leaders are engaged in a struggle for the reins of state power. As part of the part of the project of consolidating this power, states create loyal subjects and citizens, teach civic pride, and inculcate numerous symbols in the minds of their subjects. For Tilly, nationalism is partly a by-product of the struggle for state power.

While many have noted that the Westphalian state did not look very Westphalian until centuries after 1648, others argue (Hinsley 1986; Spruyt 1994) that what was alleged to have taken place in the middle of the seventeenth century in fact took place much earlier.[3] If sovereignty is exclusive property rights exercised over a definite territorial space, then something like this came into being five centuries earlier with the Concordat of Worms. Bueno de Mesquita argues (in this volume) that the modern state structure emerged from a struggle between religious authorities and kings. So Westphalia is denied any dramatically different status, at least in qualitative terms, from the world that existed before it and the one that followed.

While a lively research program exists, progress is impeded by the lack of clarity and agreement on basic concepts. As a result, we often speak past one another. Separate research fails to accumulate and individual efforts do not add up. Unless one believes that knowledge is incommensurable, creating a conversation is perhaps the first order of business (Burch, this volume). In turn, dialogue is most likely to succeed if it proceeds from a sound diagnosis of the problems. Here, unfortunately, it is difficult to speak with any certainty. I can only offer hunches for the current state of affairs and proceed to outline a program that I hope leads to progress. Epistemological hunches are contingent in the same way that substantive hypotheses are.

What reasons can be offered for our current condition? Of course, the central concepts with which we deal are difficult to say the least. If we run through the

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[3] Hinsley (1986) and Spruyt (1994) can actually be put on both sides of the divide, since each argues that Westphalia occurred both before and after 1648.

roster of concepts—territoriality, authority, sovereignty, power, legitimacy—we can immediately see that we are dealing with concepts at a high level of abstraction, very different from say, seniority in the Senate, gross national product, or even party fragmentation. However, to say that the concepts are difficult does not get us very far. Everyone is likely to agree, but so what?

Three additional reasons can be offered to explain the disarray in studies of international system change. These reasons have to do with 1) the highly abstract nature of our concepts; 2) the dichotomous conception of many key variables; and 3) the overly aggregated nature of many terms. I will try to convince that these three points are separate, that they are genuine problems, and that good analysis can lead to improvements. While efforts to convince the reader along these three lines are related, each point stands alone. In the sections that follow, I briefly review the problems and then move to possible strategies to deal with them. In the "remedial" section, I concentrate mostly on the aggregation issue.

Abstract nature of the concepts. All concepts are abstract. Indeed, the root of the word means to draw out or away from what Harry Eckstein called "the relentless particularity of experience." Concepts attempt to draw together elements of concrete experience that can be grouped in a fruitful way, so as to improve our understanding. Thus, the point is not to avoid abstraction, but to build fruitful concepts. Again, no one will disagree with so anodyne a statement. The challenge is to pitch concepts at the right level so as to connect both upward (towards general theory) and downward (towards the empirical data). The mix of concepts associated with the Westphalian order (sovereignty, authority, autonomy, control, territoriality) have fallen down on the latter criterion, that is, on the connection between abstract concepts and empirical observations.

Dichotomous nature of concepts. Concepts such as sovereignty and territoriality have been treated as if they could take on two possible values—present or absent, sovereign or not sovereign, territorial or nonterritorial organization. While some concepts are inherently dichotomous, many so treated are at bottom continuous. Even types of political systems, such as presidential and parliamentary, can be conceptualized as having more or less of these properties measured on some underlying continuum (Shugart and Carey 1992:2–3).

Defining our concepts in either/or terms has caused us to labor needlessly about whether certain states are sovereign or not, whether emerging international unions such as the European Union (EU) possess sovereignty or not, and if they do, whether such sovereignty is shared with the constituent nation states. Dichotomous conceptions of sovereignty have also prevented us from conceptualizing "sovereignty bargains" (Litfin 1997). Disputes over sovereignty and who possesses it are bound up with the notion that sovereignty is the ultimate right to decide. Sovereignty in this sense implies a hierarchy of both

norms and power. Many institutions within (and outside) society may possess both competencies and normative support, but when they are in conflict with one another—when "the chips are down" as the saying goes—the important question is who has final authority? Since the ideas of normative conflict and hierarchy of norms are central to much legal reasoning, lawyers tend to adopt this view of sovereignty as located in final authority. Since the law is about adjudication among competing norms, lawyers are supremely well placed to shed light on sovereignty so defined. Yet the idea of sovereignty as the ultimate right to decide has seriously retarded progress. Dichotomous conceptions of sovereignty do not allow much observable variation, cannot be untangled from other important concepts, and are not easily assimilated into the language of political exchange (compromising sovereignty, sovereignty bargains) and sovereignty practices.

Almost all of the concepts related to the Westphalian model—territory, control over borders, authority, autonomy, legitimacy, and sovereignty—can be thought of in continuous terms. While phrases such as "more or less sovereign" may sound odd, I suggest they do so because of the ingrained notion that sovereignty is the ultimate right to decide. While this point is straightforward, it is not uncontroversial, and finding areas of agreement with respect to definitions is an important first step.

The aggregation of concepts. Concepts such as territoriality, sovereignty, and authority obviously exist at a very high level of aggregation. To some extent, this is unavoidable. We are dealing with macroconcepts that often cannot be factored down into more specific, microlevel representations. Anarchy is a structural characteristic of the international system, not a characteristic of states. States are not anarchic, yet placed in relation to one another they form an anarchy. And individual states are not bipolar or multipolar but the system as a whole may be. Information about components is used to construct systemic properties (how could it be otherwise?), but once assembled in relation to one another, the system takes on meanings of its own. Composition counts. The placement of elements makes a difference. Waltz (1979) has gone to great pains to establish the independence of third-image (systemic) theory. If Waltz is correct—and I think he is on this point—systemic theory cannot be reduced to its components. A theory of the market is different from, and not reducible to, a theory of firms, just as a theory of international relations is separate from a theory of foreign policy.[4]

Lest I sound as if I am defending what I want to criticize, I note that the aggregation issue takes two forms. The first, discussed briefly above, concerns

[4] This is a separate question from whether systemic theory by itself is underdetermined and therefore requires a theory of foreign policy as a complement.

the spatial outlines (boundaries) that the concepts of international relations theory trace. Here we simply have to follow the instructions of the concepts themselves. Anarchy is an organizing principle of the international system; sovereignty a characteristic of states; legitimacy a relation between ruler and ruled, and so on. The second form of the aggregation issue has to do with compound concepts—the grouping of concepts under broader umbrella terms. The use of compound terms shows up in the definition of authority (power wielded legitimately), power (asymmetric resources, conflict of will, compliance of one to the wishes of another), and territoriality (physical space and public authority).

The use of compound terms may reflect an elective affinity among components, an affinity so strong that we can think of certain things as bonding naturally, almost by definition. Certain elements of the periodic table go together in such frequent and stable fashion that the compounds themselves are treated as "real" things, having a stable existence of their own. Or we may wish to treat certain properties together because we suspect that the whole is greater than the sum of the parts, that strong interactions exist among the components and that viewing each in isolation from the other runs the risk of missing these essential interactions.

Neither of these cases provides a good defense for starting and finishing at a high level of aggregation when studying the territorial state. It is true that state, border, citizen, national, territory, and authority have come together with such regularity that we are likely to recognize the whole more easily than the parts. Nevertheless, the components associated with sovereignty do not always come together; indeed, they are arguably increasingly detached from one another. States and corporations attempt to extend their authority outside their own territory, the International Criminal Court (ICC) extends its jurisdictional reach within the domestic boundaries of recognized states, and postnational (post-state) forms of citizenship are emerging in which identifications are in part detached from territory. The extent and significance of these decouplings are debatable, and they are debated in this volume. Here I am just trying to establish that the bonds and linkages are not so tight as to warrant a definitional fusion of separate properties into one overall concept. To do so would cannibalize potentially interesting propositions.

Two important examples of compound terms are authority and territoriality. In Weber's (1947) famous definition, authority is power wielded legitimately. Authority refers to the structure of rule (Herrschaft) in which the commands of the ruler are accepted as legitimate. In this formulation, power, which is already a complex concept, is attached to legitimacy to form a conceptual compound, authority.

The term "territoriality" has been used in numerous ways (see Ruggie 1993). It is used to signify that nearly all the landmass of the world is carved up into

spatially exclusive units. With few exceptions (The Order of Malta, foreign embassies), states do not have overlapping jurisdictions regarding territory. It is doubtful that subsidiaries of international firms are competing authority structures in the full sense of the word. They are without question extremely important extraterritorial islands of power and influence. As Hatch and Yamamura have argued (1996), when Japan directly invests in a foreign country, its presence is not limited to physical structures of investment. It is also exporting *keiretsu* and the organizational habits of Japanese management culture. Territoriality is also used to denote a principle of political organization that delimits the spatial scope of public authority. In this usage, the reach of public authority is coterminous with the physical boundaries of the state, that is with its geographic borders. Finally, territoriality is used to remind us that states have borders that serve to physically protect from outside threats, to enhance a range of economic objectives, and to preserve cultural autonomy.

It is not just that territoriality can mean many things when used by different analysts but rather that it inherently means several things at the same time, even when used carefully by the same person. Territoriality brings together physical space and public authority. In this sense, territoriality is a function (a hypothetical relationship) rather than an attribute.

One way to deal with overly aggregated concepts is to unpack them. Sovereignty as a complex concept should be broken down and analyzed. Among several scholars who have urged this approach I single out the work of Krasner (1995/1996, 1999), Litfin (1997), and Ruggie (1993) as especially productive. Krasner identifies four properties associated with sovereignty—territory, recognition, autonomy, and control—and proceeds to examine the combinations that occur. He flatly states that "only a very few states have possessed all of these attributes" (1999:220). Trade-offs and compromises abound. As Jackson and Rosberg (1982) noted long ago, many of Africa's weak states persist not because of state capacity to rule internally and to control borders, but because of the stabilizing force conferred by international recognition. Also, the rulers of states can enter into international treaties that may limit their own authority. The member states of the Treaty of Amsterdam recognize that the European Court of Justice (ECJ) can overrule states on certain matters of domestic law and practice. For example, while the United Kingdom is a system of parliamentary sovereignty, laws of Parliament can be overridden by judgements of the ECJ in certain areas. Thus, without repealing the United Kingdom Accession Act of 1972, by which the UK entered into its obligations with the European Union (EU), Parliament does not always have the ultimate right to decide. Other states, such as Taiwan, may have the capacity for domestic rule, as well as the capacity to exclude external authority structures, and yet not enjoy international legal recognition (Krasner 1999:4). The permutations and combinations are limited only by the number four.

In "Sovereignty in World Ecopolitics" (1997), Karen Litfin makes two important conceptual moves. The first move is to shift the focus from sovereignty as ultimate right to decide to sovereignty as a set of ongoing norms and practices. Sovereignty immediately becomes more differentiated, more observable, separable, and variable. The second move is to unpack sovereignty into three constituent elements: autonomy, control, and legitimacy (1997:169). Although these elements commingle in practice, Litfin argues that it is important to distinguish them analytically. If autonomy, control, and legitimacy were perfect indicators of a perfectly homogenous concept, they would always move in an identical way in relation to other variables. By contrast, we find that these core conceptual elements are imperfectly related; indeed, sometimes they are at odds with one another. This leads Litfin to engage in the analysis of "sovereignty bargains."

While my formulation of sovereignty and the Westphalian order differ somewhat from Litfin's and Krasner's, they have nevertheless pointed the way by breaking with the legalistic approach, conceptualizing sovereignty as continuous rather than discrete and absolute, and breaking down overly aggregated concepts into more primitive components. By doing so, they have permitted, indeed encouraged, the analysis of the complex ways in which the components of sovereignty move.

In the remainder of this paper, I attempt to build a taxonomy of key concepts relative to the Westphalian order, relying upon power, authority, and territory as primitive terms. I then attempt to apply the conceptual scheme to an empirical illustration of how territory and authority have increasingly become separated (not merely separable) from one another in the present European context.

Conceptual Clarification

A full understanding of the Westphalian order requires at a minimum attention to four concepts: authority, sovereignty, territoriality, and citizenship. In this section, I will attempt to clarify these concepts and show how they function together, as a coherent ensemble, as part of the overall concept of the Westphalian order. It follows from this that changes in the Westphalian order are not so much changes in the component concepts as changes in relationships among them. Nevertheless, analyzing the components is essential to understanding the overall relationships.

Authority. The significant aspect of authority from my perspective is "right to rule" or "recognized right to rule." Since politics is about systems of rule, claims about the right to rule are distinctive claims about both legitimacy and capacity to govern.

However, while authority claims rest partly on acceptance and legitimacy, our collective understanding of legitimacy seriously overstates the importance

of notions of political support, informed by modern theories of public opinion. Weber's famous definition of authority as "power wielded legitimately" was not intended to imply that authority exists only when a democratic citizenry actively supports the policies and governance structures of the state. Instead, authority is best conceived as a relation of command and obedience, as a set of claims "to the exclusive right to make rules" (Thomson 1995:223). The success or failure of these claims rests on a variety of bases, including active political support, a generalized acceptance of the rules of the game, deference to experts, fear of retaliation, and sheer indifference to the process and outcomes.

The concept of authority raises serious definitional difficulties that will not be solved in this short article. One difficulty may be summarized by pointing to the Parsonian tradition in sociology, which more or less equates authority with voluntary consent of the subject to the "holder" of power, and contrasts this voluntary dimension with naked force and coercion (Parsons 1967). As Dennis Wrong (1979:38–39) perceptively points out, this view of the relation between force and authority seriously overestimates the amount of consent in society and also fails to see alternatives to coercion and active legitimacy (an aware, informed acceptance of rule) as foundations of compliance. The rules of governments may be obeyed because of fear of reprisal, because of inducement, because of a belief that the "authorities" are competent experts (e.g., independent central banks), and because they are deemed to be legitimate. My definition of authority comes closest to Arendt's use of this concept.

> The authoritarian relation between the one who commands and the one who obeys rests neither on common reason nor on the power of the one who commands: what they have in common is the hierarchy itself, whose rightness and legitimacy both recognize and where both have their predetermined stable place. (Arendt 1961:93)

Thus the distinctive characteristic of authority is the presumptive right to rule, which is a structural relation joining both rulers and ruled. The above definition of authority makes it clear that "private authority" is not a contradiction in terms nor is the phrase "sovereign authority" redundant. These two concepts are separable in principle and in practice. And since authority rests on numerous foundations, this definition recognizes authority in authoritarian systems, an impossibility if authority relations imply the voluntary acceptance of and democratic compliance with rules.

Sovereignty. While sovereignty and authority are related, the latter can exist without the former. A religious leader may exercise authority over believers, a doctor over patients, and a parent over a child. Different authority structures may function in their own space. If these separate structures are "scheduled" so as not to conflict with one another, no question need arise as to which is supreme.

I will argue below that the territorial principle forces the issue of which authority is controlling.

Sovereignty has to do with relations among authority structures. The sovereign authority—the state—is the final authority, the authority that claims the ultimate right to decide. As Hinsley (1986:21) points out, sovereignty did not evolve in perfect synchrony with the state. It lagged the emergence of the Westphalian state by several centuries. Sovereignty, as a claim about ultimate rule within a territory, came after the state itself, even if we today confusingly define the state as sovereign. This definitional tangle of separate properties masks a complex historical interaction between states and systems of rule.

The view of sovereignty as final and exclusive rule cuts through the subtle and more differentiated discussion of the concept by Krasner and others (Krasner 1999; Thomson 1995). Krasner identifies four broad uses of sovereignty: control over borders, external recognition, ultimate right to decide, and capacity to exclude external authority structures. I rely on the last two closely related uses—sovereignty as the ultimate right to decide and as capacity to exclude external authority structures.

Territoriality. Territoriality refers to the organization of political space, in particular to the principles underlying the way political space is organized. Political organization is territorial when the legal reach of public authority is coterminous with certain spatial boundaries, such as those of the national state or of federal jurisdictions within a state. Territoriality links politics as authoritative rule with the geographical reach of this rule. Other principles of political organization exist: rule by and over tribe (which might be dispersed in different territories), rule over believers (say over Catholics worldwide), and rule in terms of administrative task (e.g., independent regulatory agencies that are not limited to state borders) (Ruggie 1993).

The emergence of the territorial principle, of rule over territory by a single ruler or political institution, is subversive of multiple claimants of authority. It is possible to imagine separate authority structures existing side by side. Indeed, the medieval principle of organization in which multiple authorities exist within the same territory, each authority making claims based on use, customary rights, and personal relations, provides a case in point. However, the persistence of competing claims and the absence of sovereignty depend on nonterritorial forms of organization. When the territorial principle emerges, it immediately raises the issue of rule over space, regardless of substantive domain. When conflict occurs, it is more difficult to resolve by more finely honed specialization of function or by exit.

The territorial state is of course a state with physical boundaries, and a well developed sense of inside-outside and us-them. As Bartolini (1997) has persuasively argued, the modern state has closed off boundaries, thus altering the relative incentives in favor of voice against exit. The rise of political parties,

the expansion of the electorate, the growing importance of formal representation and parliaments, and the development of interest group lobbying may be seen as indicators of this selective but powerful tightening of the borders of states. With the movement of people and capital more restricted, and with claims to rule by the state more pervasive, "domestic" mobilization became inevitable.

In short, territorial organization implies rule over a distinct space, the subjects in that space, and the economy within that space. It also implies drawing together (consolidating) scattered islands of authority into one hierarchy or separating authority into separate territorial spheres, as in federal systems. The territorial principle implies neither total control nor absolutism. The authority of the territorial state can be quite limited and carefully circumscribed. Constitutions, formal and informal, may spell out the precise range of authorities of the state and may divide the powers of the state among several institutions. But whatever the boundaries of the state with respect to the society, when conflicts among authorities occur, the sovereign state can claim final right to rule.

Citizenship. The meaning of citizenship centers on membership in a political community and is incomprehensible apart from it (Brubaker 1992; Wiener n.d.). In the Westphalian order, citizenship is based on membership in states. This membership implies certain rights and responsibilities. Membership in cosmopolitan associations and transnational markets (as tourist, as guest worker) may provide resources and opportunities but these areas are not institutionally entrenched in the same way that citizenship rights are.

The territorial state has served as a container for our understanding of citizenship, so much so that a distinguished international relations scholar has asked if multinational citizenship is possible (Aron 1974). The boundaries of the state have traditionally set limits to the range of rights and responsibilities with which we are familiar. Yet state-centric citizenship displays its limits as integration among countries increases. The flow of goods and factors, especially labor, across national lines, pointedly raises questions about rights regarding the market and beyond. Tensions build between the scope of benefits supplied by the territorial state and the practical needs of people moving across state borders. Unemployment insurance, pensions and social security, dependency allowances, and rights to move spouses and children all take on new and problematic aspects in an integrating context. In Western Europe at least, the tensions between state-centric citizenship and regional markets are prompting an examination of postnational conceptions of citizenship (Curtin 1997; Shaw 1999).

The Westphalian Syndrome

Authority, sovereignty, territory, and citizenship are distinct concepts in the sense that none both logically entails and exhausts the meanings of the others.

True, sovereignty is a type of authority but it is also more than that. Territory involves the merging of physical space and public authority but the congruence between the two is far from perfect. It is precisely this variability in fit that provides leverage for research. A central question is what accounts for changes in looser or tighter levels of fit. Citizenship has been closely identified with membership in the Westphalian state but there has always been some deviation from a perfect territorial interpretation of citizenship. Citizens abroad may vote by absentee ballot in their own domestic elections, and foreign workers may have rights (to medical treatment, for example) beyond their own borders. Nevertheless, these four concepts are coupled to a sufficient extent so that we can refer to their relationships as a syndrome—the Westphalian syndrome. Since these concepts are empirically correlated at the same time that they are conceptually distinct, it makes sense to disaggregate them and investigate their empirical interrelationships. For the most part, it is changes in these relations, rather than component properties, that we have in mind when we refer to the Westphalian order.

Table 1 sketches four "types" of relationships based on two polar values of territoriality and salient principle of rule. Regarding territory, I refer simply to the inside-outside dimension. Regarding principle of rule, I distinguish between authority and power. The cells of the table thus are formed by the intersection of form of rule and the territorial principle: politics within or among states.

Cell 1 directs our attention to authority relations inside the state, that is, domestic politics. The salient basis of governance is recognized right to rule,

Table 1. Types of Domestic/International Systems

		Form of Rule	
		Right/Authority	Power
Territory	Inside	(1) Domestic rule Legitimacy Final authority to rule within a territory	(2) Autonomy Freedom from external influence State capacity to rule State strength
	Outside	(3) Control over borders External recognition Capacity to enter "game" of international politics Hegemonic order	(4) Control over borders Power over others Agenda power Go-it-alone power

that is, authority relations. There is a significant component of a generalized acceptance of rule and of the right of political institutions to make laws within a territory. This is the classical locus of government seen as legitimate rule, as a structured hierarchy of command and obedience. Cell 2 shifts attention to power relations, which while not completely distinct from authority, focuses us more on the capacity to mobilize resources and to use them—to resist or to achieve positive goals—within a territory.

Perhaps the most fundamental power-oriented goal relates to autonomy and self-determination. A state that is penetrated from the outside, that is subject to every push and pull of the global political economy, may not even be able to form its own goals. Such is the sorry state of affairs painted by dependency theory: a weak "domestic" economy, where the label scarcely applies; widespread presence of "external" actors such as MNCs and comprador classes whose internal presence also cannot be denied; and fragmentation of the nominal domestic economy, which is not strongly linked by Leontieff input-output processes or connected via the movement of aggregate economic functions (savings, investment, production, consumption).

The third cell brings us back to the dimension of right to rule, though now in its external significance. I hasten to add that these boxes do not represent qualitatively distinct relations. Instead, they refer to different mixes of raw power and authority. Immediately below the horizontal line appears "control over borders." States regulate exchanges between inside and outside. Such exchanges include trade, capital flows, drug traffic, immigration, migrant labor, and tourism. There is a greater consensus on how to manage some of these border exchanges (e.g., trade) than others (e.g., migrant labor). Also in this cell are international legal recognition (Jackson and Rosberg 1982), diplomatic recognition, and playing by the norms and rules of the game of international politics.

There is another side to the external aspect of legitimacy. Authority relations may extend from inside the state to relations among states. There are fragments of authority as part of the United Nations' peacekeeping activities in many parts of the world; in normative movements such as the drive for international racial equality (Klotz 1995); and more controversially as part (and only a part) of the International Monetary Fund's programs in the less developed world. Hegemonic power is also, inevitably, hegemonic authority.[5] The

[5] Again, I am not suggesting that hegemony, especially the hegemony of the IMF, is legitimate in the corrupted modern sense that it is viewed as welcome and in the interest of those on behalf of whom the power is wielded. But it is also more than raw power, or even power with a fig leaf of ideological justification. It would be difficult to imagine the programs of various international organizations, as well as the international projects of many states, without an appeal to external constituencies and some support for these hegemonic projects from receiving countries.

British Empire, the IMF, and the visions of world order projected by France and the United States are all based in part on a claim to authority that goes well beyond raw power and material capabilities.

Finally, Cell 4 points us towards the traditional realist content of international politics—the use of power across national borders. The full range of power applies: the power to control the actions of others, the power to control outcomes, the power to structure agendas, and the power to "go it alone" (Gruber 2000), that is, the capacity either alone or in coalition to pursue a path upon which others must follow. Germany and France formed such a coalition in the first two decades of the European Union's existence. Perhaps Germany, France, and the United Kingdom form such a coalition today.

While this discussion hopefully clarifies my main concepts, it does little to address the issue of change. If the Westphalian order involves congruence among territory, scope of public authority, and citizenship, then a weakening (strengthening) of this system involves a loosening (tightening) of these bonds. If contemporary states decrease their capacity to resist external authority (not influence) or, conversely, if they succeed in projecting their authority outside their borders, this indicates a change in the parameters that govern the Westphalian order.

In the remainder of this article, I attempt to demonstrate what a change in the Westphalian order entails. It should be clear from the above discussion that the Westphalian state system is not necessarily altered by increasing levels of interdependence, loss of control over borders, decreased policy autonomy, or inability of particular states to exert control over international outcomes. These things tell us something about power, autonomy, influence, and dependency but little about the pillars of the territorial state, which have much more to do with the congruence between territory and authority structures.

In order to highlight territory and authority, I focus on a distinct case, the reception of European Union authority into the United Kingdom's constitutional order. The force of the example stands or falls on the claim that it is the exclusion of external authority, rather than the capacity to resist an external force, that is at issue. The central failing of most of the attempts to study changes in sovereignty involves the confusion of constraints on state power and autonomy with constraints on and sacrifices of sovereignty itself (the latter quite a different thing). The time frame of this empirical example runs only a couple of decades (from 1973 to the present), a mere dot (actually a short line, representing about 7 percent of the temporal spectrum of Westphalia) in the *longue duree'* of the Westphalian order from 1648 to the year 2000. This temporal mismatch works against my example by placing the burden of plausibility (forget about proof) on a few decades when clearly a much longer time frame would allow these deep changes in international system structure to develop, if indeed they were occurring. But plausibility is all I am trying to show, not proof. If the reader is convinced, even curious, that a thin wedge of change in

the nature of the territorial state is taking place, I will have accomplished my purpose.

In what follows, I argue that territorial boundaries and domestic authority structures have increasingly decoupled, that external authorities routinely intrude on the UK legal order, that a significant component of economic citizenship is given operational content by authority structures physically outside the UK, and that key aspects of the domestic constitutional order—Parliamentary sovereignty—are threatened by "alien" political practices such as judicial review. While I am aware that I cannot provide a convincing case for so ambitious an agenda in the few remaining pages, I hope the following is suggestive.[6]

The European Union and the United Kingdom: A case of fragmented and shared sovereignty.[7] Since becoming a member of the EU in 1973, the UK has experienced difficulties adapting to European policies and institutions. While the policy dimension is most often emphasized (e.g., social policy, monetary policy), the institutional implications of UK membership may be of more lasting importance for the territorial nature of authority. One critical aspect of the UK institutional order relates to Parliamentary sovereignty, the doctrine that the laws of Parliament are supreme. Yet this important institution, the core of the British constitution, is being compromised by judicial processes emanating from an external body, the ECJ.

To tell this story, I will first describe how an international treaty (The Treaty of Rome, and later treaty amendments) was transformed into a constitutional document, how that document was then used to interrogate domestic legislation, and how this legislation (Acts of Parliament) is overturned on the basis of conflicts with European law, conflicts which are of course not objective but interpreted by the ECJ itself. Few clearer clashes between domestic and external authority structures are likely to be found.

Before judicial review of Parliamentary legislation could take place in the UK, important changes had to transpire in the nature of the Rome treaty. The Treaty of Rome defined a traditional, treaty-based international organization limited to the resolution of interstate conflicts. Mancini and Keeling (1994), reflecting on the early years of the European Economic Community (EEC), noted that the Treaty of Rome was forged as a compact among states, with no

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[6] These matters are taken up in more detail in my work with Joseph Jupille (Caporaso and Jupille 2000). Also see "Sovereignty and Territoriality in the European Union: Defending the UK Institutional Order," manuscript, University of Washington, Seattle, Wa., 2000.

[7] In this section I rely on Caporaso and Jupille, "Sovereignty and Territoriality in the European Union: Defending the United Kingdom Institutional Order," University of Washington, Seattle, Wa. 2000. Pp. 11–15.

vertical lines between the institutions of the EEC and individuals. Individuals had no status, no legal standing before courts (domestic or international) under the Treaty. The term "Community" referred to a community of states, not individuals (Mancini and Keeling 1994:176).

Thus, from the standpoint of developing individual rights under Community law, the architecture of the EU seemed weak. Before domestic legislation could be called into question, the Treaty had to be transformed from a decentralized compact among states into something like a domestic constitution, providing entrenched individual rights, which are not easily reversed by simple acts of Parliament (see Mancini 1991; Stone Sweet 1995). The process by which this historic transformation has been (and continues to be) accomplished is referred to as "the constitutionalization of the Treaty system" (Mancini 1991). This term "refers to the process by which the relevant treaties have evolved from a set of legal arrangements binding upon sovereign states into a vertically integrated regime conferring judicially enforceable rights and obligations on all legal persons and entities, public and private, within EU territory" (Stone Sweet and Caporaso 1998:102). This process involves no less than a transformation from a classic international organization based on state-to-state relations into a partly domesticated system of governance founded on law directly applicable to individuals.

This process of constitutionalization, while Court-led, has been driven by deeper social, economic, and political forces, in particular by the linkages among private litigants, national courts, and the European Court (Stone Sweet 2000). The most important jurisprudence was laid down in 1963 and 1964, with the cases of *Van Gend en Loos* and *Costa v. E.N.E.L.* The *Van Gend* case established the doctrine of direct effect, whereby Community law can confer rights upon individuals, who can invoke those rights in making claims against states. That is to say, the Court asserted that provisions of the Rome treaty created rights and responsibilities for individuals even without supplementary actions by national institutions to translate Treaty doctrine into domestic law. The Court propounded an important doctrine, eroded a standing partition between domestic and international law, and created a mechanism by which individuals could claim judicial remedies before international courts (Stone Sweet 1995:2–4).

This legal move was so important because it empowered individuals in an area of obvious self-interest to them. By doing so, it set up a mechanism for the law to become relevant to individuals while at the same time it did not require a huge bureaucratic apparatus to enforce the law. The latter factor was facilitated by the Article 177 procedure, whereby individuals could appeal to their national courts, which in turn could ask the ECJ for a preliminary ruling if the matter in question raised elements of European law.

Important as the doctrine of direct effect was, it could not very well work by itself in the face of contrary domestic law. It is not surprising that in the year

following *Van Gend* the Court grasped the nettle and confronted the issue of the relationship between municipal and international law. In *Costa v. E.N.E.L.*, the Italian courts first heard the case where an Italian citizen refused to pay his electricity bill because he asserted his rights under the Rome treaty had been violated. Since Italian law governing the case (a law nationalizing an electricity company) came into existence after the Rome Treaty, the Italian Constitutional Court decided against Mr. Costa, citing *lex posteriori*. The case then was appealed under the Article 177 procedure, and the ECJ, while agreeing that Mr. Costa had to pay his $3 electricity bill, quietly added that Community law was supreme. In the process, in a most off-handed manner, judicial review was brought into being.

It is difficult to exaggerate the importance of direct effect and supremacy. Indeed, they make up what many now think of as the constitutional pillars of the EU system. In announcing direct effect, the Court provided individuals with legal standing under an international treaty, and by so doing, it considerably closed the gap between treaty law and municipal law. A transnational legal space was created within which individuals could seek redress for complaints before domestic courts relying on Community law.

The ideas of direct effect and supremacy led naturally to judicial review. If individuals were to have rights that could be exercised under European law, and these rights were to hold up even under conflicting domestic provisions, a judicial body had to exist to adjudicate claims. Judicial review involves the assessment (review) of the laws of one level of government in light of laws (including the constitution) of another level. Some hierarchy is implied in the very idea of judicial review.

When the ECJ set forth the doctrines of direct effect and supremacy, it implied that the European Court would have the ability to review and overturn domestic laws. Thus, it is no surprise that supremacy was not easily accepted. Numerous countries, France, Italy, and the UK among them, resisted and continue to resist. Nevertheless, today judicial review is variably accepted in almost all of these states. The legal innovation that made this transformation easier had to do with the fact that it was domestic courts using the preliminary reference procedure that served as agents of this change. The triumph of the judiciary and judicial review, therefore, does not appear so much as a triumph of external forces (the ECJ) over domestic institutions, as a triumph of the rule of law in the form of constant scrutiny of domestic legislation in light of European law (Alter 1998:121). Nevertheless, it is clear that the role of Parliament in the domestic constitutional order has changed, and that it is no longer supreme in the sense that it previously was.

To give focus to these macro changes in the nature of territorial authority in the UK, I will first discuss changes in British gender equality legislation brought about by litigation under European law. Gender equality legislation, particu-

larly as it applies to the workplace, is a fascinating case study, since both the UK and the EU have their own equality provisions. The possibility for conflict between laws at different levels has clearly existed from the very beginning. Building on this discussion I will then attempt to show that there is an emerging pattern of judicial review in which the ECJ scrutinizes domestic legislation in light of European standards derived both from the Treaty as well as secondary legislation. The result is a cross-national, transgovernmental legal process in which the authority structures of the domestic order are called into question by authorities at another level. What is at issue is not the creation of a larger state but the mingling of domestic and external authority relations and the willingness to accept a different authority depending on the issue at hand. There is both a segmentation by subject matter and a loosening of authority from the physical boundaries of the state that takes us further from the Westphalian ideal.

Gender equality legislation.[8] While the UK and the EU both have equal pay and equal treatment legislation (and Treaty provisions in the case of the EU), the provisions are not identical. The UK passed the Equal Pay Act in 1970 and the Sex Discrimination Act in 1975. While the Pay Act was passed even before the UK entered the EU (1973), conformity with European law was in the minds of legislators while the Pay Act was drafted. Since the laws at the national and European levels were not identical, this opened up the opportunity for litigation by victims of economic discrimination. In fact, the UK was put under continuous pressure by the Commission and the ECJ to redraft its domestic legislation to make it conform to the European standard.

The basic narrative is as follows. The Equal Pay Act was passed in the UK in 1970 and provided for equality in pay for like work. However, a number of serious shortcomings existed, especially where the plaintiff did not have a comparator, that is, someone in a similar job in the same establishment. Since most of the inequality was between job categories rather than within them, this was a serious matter. Women could be prevented from claiming discrimination simply because there were no men doing the same job.

Thus, potential victims of discrimination faced a difficult situation. If women performed the same jobs as men, and were paid less, discrimination would be easy to demonstrate. But in the more common case where women and men worked at different jobs, and women were paid less, they would have no male equivalent, that is, no one doing exactly the same work with whom to be compared. Clearly, unless equal value (not just equal pay) standards were admitted, no progress could be made. Women's groups and others within Britain pushed

[8] In this section I draw heavily on Caporaso and Jupille (2000).

for amendment to the 1970 act so as to admit the phrase "work of equal value." However, little happened until the EU acted and passed the Equal Pay Directive in 1975. This Directive explicitly included the "equal value" language and imposed a deadline for its enforcement of February 1978. After this date, and upon its 1979 review of domestic measures implementing the Directive, the Commission felt that the UK had not properly implemented the Directive (primarily because of the shortcomings enumerated above) and instituted infringement proceedings.

The case was brought before the Court and the UK was found in violation of the Directive (Case 61/81, [1982] ECR 2601). In response, the Department of Employment came up with proposals for amending the Act. Women's groups, the Equal Opportunities Commission, and the House of Lords met the proposals with stiff resistance, objecting in particular to the one-year delay they would have created before giving effect to the ECJ judgment (Clarke 1984). In 1984 the Equal Pay (Amendment) Regulations were passed. This is certainly not the end of the story, as the Equal Opportunities Commission (EOC) and women's groups have continued throughout the 1980s and 1990s to invoke European law in compelling the UK government to amend domestic legislation. Domestic law in the UK was brought in line with European standards largely at the behest of an external authority structure.

Changes in the British constitution. The preceding material on gender equality legislation is provided to show that an external authority structure has intruded into the UK's domestic institutional (indeed constitutional) order. The fact that this external authority was accepted on "right to rule" grounds rather than imposed by force makes it no less compelling as an example of a change in the nation-state's territorially organized authority structure. Indeed, for this series of events to qualify as a case of authority change, rather than change in autonomy, requires acceptance by the UK of the legitimacy of the higher legal order. Gender equality is not alone as an example of external authority nor is the manner in which the ECJ operates with respect to domestic politics unique. Analyses of conflicts among legal orders in the areas of free movement, migrant labor, competition, and social security would likely yield similar results.

Just as important as these authority changes are in gender equality policy are the implied changes for the UK judicial style (Levitsky 1994). Three aspects of the British legal style may be singled out: parliamentary sovereignty, the absence of judicial review, and the absence of constitutionally entrenched rights. All three institutional properties are being subjected to intense pressure to change and in some part (though not completely) that pressure emanates from Europe.

Parliamentary sovereignty means that laws of Parliament are the supreme law of the land. As Dicey put it, the British Parliament has ". . . the right to make or unmake any law whatever, and no person or body is recognised by the

law of England as having the right to override or set aside the legislation of Parliament" (from Dicey 1959, quoted by Levitsky 1994:349). The laws of Parliament are supreme and no other institution can overrule them, including the courts. Thus, the function of judges is to "limit themselves as much as possible to the literal words, avoiding constructions that are not true to the statutory text" (Levitsky 1994:350). Further, a more recent act of Parliament trumps an earlier one. In principle, the only thing that the Parliament may not do is to limit the law-making capacity of a future Parliament.

Parliamentary sovereignty implies, with little room for discretion, the absence of judicial review. If laws of the Parliament are supreme laws of the land, no other body may interrogate them and overturn them. In response to the query "but aren't there always exceptions and ambiguities," the answer is "yes but" it is the function of Parliament to draft legislation precisely, to fill gaps, and to make continuous amendments. And according to Levitsky, British statutes are drafted in a very precise manner, simultaneously limiting the scope of judicial discretion and placing a burden on legislators to write comprehensive laws. (1994:350)

Contrary to established British tradition, the ECJ has reviewed and continues to review British legislation. Community law is much more open-ended and vague than UK law and the ECJ's judicial style is correspondingly more discretionary and creative. Judges within the UK no longer have to limit themselves to narrow and literal interpretations of the law, the "plain meaning of plain words," but can rely on purposive interpretations about what the legislator must have meant and can rely on debates within the Parliament to inform their reasoning. In *Pickstone v. Freeman* (1988), an equal pay case, the House of Lords argued in favor of the plaintiff, Ms. Pickstone, on grounds that her rights had been violated by the Equal Pay Act and amendments to this Act in 1983. By 1988, the substance of the Court's judgment was not so surprising as the means by which it made its arguments, namely, the purposive interpretation of relevant Acts of Parliament. The plain words of the Equal Pay Act and the amendments failed to provide the "correct" result, that is, the result that yielded compliance of the UK law with its own European obligations. "It is plain," argued Lord Keith, "that Parliament cannot possibly have intended such a failure" (Bradley 1988). After *Pickstone*, the use of judicial review becomes even more pronounced in the Factortame cases (1990, 1991) and the Equal Opportunities case in 1994.

The web of practices lacing together European law, the changing practices of the British Parliament, and the role of courts at both the European and national levels also have an implication for the constitutional entrenchment of rights in the UK legal order.

The entrenchment of rights, the guarantee of their provision in the face of popular pressures to the contrary, hence their insulation from the changing for-

tunes of public opinion and legislatures, has long been considered an important aspect of democracy. It is ironic that the UK, perhaps the earliest and longest-lasting democracy, does not have an entrenched system of rights. Why is a constitutional guarantee of basic rights so difficult in a parliamentary system? The usual answer given to this question is that while a particular Parliament could pass a series of fundamental rights as part of ordinary legislation, a later Parliament could as easily repeal it. Later acts of Parliament trump earlier acts.

Judicial review alters the balance of forces in favor of constitutional entrenchment. One non-obvious implication of judicial review is that it requires that the UK Parliament cannot overturn an earlier Act of Parliament that is implied by the legal order of the EU. This has important results. The doctrine of implied repeal, by which recent Parliamentary acts overturn (repeal) earlier ones is now restricted to areas to which EU law does not apply. For example, without specifically repealing the UK Accession Act, Parliament cannot pass a new law on equal pay or equal treatment that conflicts with its obligations under EU law. Thus, the UK Parliament not only accepts judicial review but must reject UK statutes passed after accession if they conflict with EU law. The result of this chain of events is a partial constitutional entrenchment of rights (if particular policies become defined as rights based in the Treaty) for citizens in the United Kingdom (Levitsky 1994:355). These rights, limited but growing, are insulated by several layers of institutional protection, all the way up to UK repeal of the Accession Act of 1972. This in turn would imply withdrawal from the EU

The growth of judicial review and the changing balance between Parliament and the courts has profound implications for the UK domestic institutional order. Parliamentary statutes were without equivocation the law of the land and were not subject to scrutiny or repeal by any other institution. In this process of deep institutional change, an external authority structure has become centrally important.

Conclusion

Territory, authority, and sovereignty. This is the triad of concepts on which this article seeks to build. The purest expression of territory is Newtonian space. By itself it tells the politically interested person little. But melded to a particular kind of authority structure—sovereign authority structures—the political content of space takes on significance. The fusion of sovereign public authority with physical space defined by exact borders is the fundamental organizing principle of the modern world. These three properties, together, define the territorial state.

A presumption of this article, something assumed rather than demonstrated, is that the territorial state is a historical phenomenon. The medieval world was not organized according to this principle (Ruggie 1993; Spruyt 1994; and Reus-

Smit 1999). In the medieval world authority was parcellized, personalized, and despatialized. Parcellization implied no overarching rule for all matters in all contexts. The particular issue and the context provided the rules. The medieval world was characterized by a multiplicity of discrete issues with distinct rule systems and codes of conduct. Inayatullah's (1995) fascinating account of the multiple uses of landed property in eighteenth-century Bengal and the changes brought about by the British attempt to fuse habitation, work on the land, and responsibility for tax revenue, illustrates the transforming effect of "modernizing colonialism" in South Asia. In the modern world, consolidation of functions, or the fusion of different functions with a politicized space, is typical. In the medieval world, the proliferation of authorities within a common space was normal. It was not unusual for the governance of a group of people to depend on thousands of separate authorities, thus confusing the distinction between inside and outside and making the concept of "external affairs" itself problematic (Kratochwil 1986:33).

Personalization implied that rights and duties were individual, that is, attached to particular persons, rather than to institutions. The aspatial ontology of this world implied that rule was not organized over a demarcated territory. To be sure, rule took place somewhere; it had its sites. But the idea of rule was not limited by a conception of permanent borders within which such rule applied and outside of which it did not apply. The habitual, accepted, taken-for-granted aspect of rule was not organized by a conception of a bounded territory.

The Westphalian turn provided movement on all three dimensions: from parcellization to consolidation; from personalization to rationalization; and from an aspatial social ontology to one that is territorial. Our modern understanding of society and politics, and related concepts of citizenship, nationalism, political development, and the franchise, are thoroughly conditioned by the overarching framework of the territorial state.

The development of the Westphalian state involved a consolidation of rule, a pulling together of separate, semifeudal domains of rule into one single framework of public authority. Today we take for granted a centralized state with vertical lines of authority, a normative hierarchy adjudicated by courts or enforced by the powerful, and a stilling of those voices who would make policy (especially foreign policy) on their own. When the United States Supreme Court renders a decision that the state of Massachusetts may not make a law controlling the foreign economic relations of firms inside its borders, we do not blink an eye. When Arafat is told he must control the violence of all the factions within the Palestinian movement before statehood can be successfully claimed, we also do not think that anything is amiss. Centralized consolidated rule is taken for granted.

Rule has become increasingly depersonalized. It has become rationalized, normalized, more a matter of routine and role than personal traits. Authority is

thought to flow from the office. Governing implies rule by law and procedure rather than by particular people. To a certain extent, the modern state—particularly the democratic state—is composed of a bundle of procedures. This is the aspect of rule emphasized most strongly by Bobbio in *The Future of Democracy: A Defense of the Rules of the Game* (1987).

Finally, over the *longue duree'* considered here, rule increasingly takes place within the territorial container of the state. Authority over believers or members of one's tribe outside the borders of the state is weak at best, and nonexistent often in fact. The term *diaspora* refers to a group of people who are separated from their fellow nationals by a territorial border. Citizenship is defined by membership in a territorially marked community. Laws are applied within state borders though extraterritorial application does take place. The distinction between the people inside and outside, between us and them, is strong. Agnew (1994) warns us to avoid the "territorial trap" of thinking that bounded territory provides a perfect container for organizing public and private affairs. It is just as important to avoid backgrounding the territorial aspects of the state, thus underestimating its power and authority.

To test such a broad thesis, broad in terms of temporal sweep and the comprehensiveness of social, economic, and political forces, is well beyond the scope of this article and the volume as a whole. At best, we as a group attempt a series of probes to tease out the meaning and logic of parts of the overall Westphalian phenomenon. My own contribution to this volume focuses on the significance of a short experience of one of the earliest states—the United Kingdom—within the context of its membership in the European Union. Persuaded to enter due to increasing economic ties to the EU countries, along with the decline in the importance of the Commonwealth and the European Free Trade Association (EFTA), the UK found itself ensnared from a most unlikely source, the legal authority of the European Court of Justice. In preserving its sovereignty, the national veto in the Council of Ministers was of no help. And opting out of the thickening system of European law proved more than difficult. Defenders of the European legal order could point out that the good justices in Luxembourg were not a bunch of radicals; they were merely reminding the British of the full content of the document signed in 1973.

The British position—that it has delegated to the EU the authority to be overruled in certain matters within the scope of Pillar One, and so retains ultimate authority—seems less and less an effective response. Under pressure from the ECJ, the UK has rewritten domestic equality legislation, amended numerous domestic acts, and altered the rights of women with regard to part-time work, pensions, and maternity rights. Fragments of European citizenship are emerging as part of a Court-inspired jurisprudence based on a European constitution (not "treaty" as it is literally called) and a distinct body of European law. Admittedly, the content of European citizenship is economic and strongly

conditioned by market participation. To this extent, it can be referred to as "thin citizenship" (Caporaso 2000). But the market is a broad and powerful institution, more subtle than most allow, and it has an ingenious capacity to insinuate itself into spheres of social life thought of as noneconomic. Only time will tell how broad the impact of the market will be but my bets are placed with the Polanyi school rather than the neoclassical "arms-length economists."

External authority, an emerging but entrenched system of rights directed from the "outside," and a mingling of domestic courts and an international court add up to a decoupling of territory and rule. The objection that external authority is accepted by the UK authorities is no objection at all. It could be no other way. An external power forcing its will or manipulating material incentives would quickly be seen for what it is—the traditional exercise of external power in the face of efforts to retain domestic autonomy. When external forces present themselves as "right to rule," even superior right to rule, we come closer to threatening the core of the Westphalian order. Transformation of rule based on a loosening of the couplings among territory, authority, and sovereignty implies a deeper change than those based on changing power configurations.

I have taken pains to show that changes in the structure of authority are occurring and that these are not reducible to changes in power and autonomy. Changes in the British institutional order are different from greater constraints on policy autonomy in the face of globalization or decreased ability to control borders. But is my argument about the intrusion of external authority different from a straightforward account of change based on external normative pressures? The short answer, which is the only one given here, is "yes." Normative change, as illustrated by Klotz's (1995) account of the battle for racial equality internationally, relies on a type of persuasion. Persuasion differs from power and inducement in that it does not involve the manipulation of positive and negative incentives. It differs from coercion in that it does not rely on force. It differs from strategic manipulation in that information is not asymmetrically distributed. And it differs from counsel in that the ends as well as means-ends knowledge are at stake. Normative change involves persuasion to certain ends and commitments to certain principles. Since persuasion and acceptance of rule are part of the intrusion of external authority, how does the latter concept differ from pure normative change?

To be sure, persuasion is present in the mix of reasons for accepting external authority. But the simple acceptance of an international norm implies little about the overall structure of public authority. The external authority of the ECJ is not total but neither is it ad hoc. The scope of its authority is set out in the Treaty, in the Court's interpretation of it, and in the patterns of resistance and acceptance of the member states. Nevertheless, when the ECJ renders a judgement, the expectation is obedience. This can hardly be said of the kinds of normative change dealt with in international relations, where often hard battles

have to be fought and where outcomes are uncertain, in order to effect change. In Klotz's example, changing norms of racial equality took place through intense bargaining within the United States. Key to the changes she describes were the efforts of Black power and Black civil rights activists to forge a domestic consensus against support of the South African government.

The burden of this volume is that the Westphalian order did not come into existence overnight. The year 1648 was preceded by centuries of preparation and followed by centuries of competition among rival forms of rule, and consolidation and weakening of Westphalian parameters. If and when this system changes, in the fundamental ways of which Ruggie (1993) speaks, we will only know it long after the time has past. The owl of Minerva spreads its wings only at dusk.

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